



September 12, 2005

Defense Acquisition Regulations Council
Attention: Ms. Amy Williams
OUSD (AT&L) DPAP (DAR)
IMD 3C132
3062 Defense Pentagon
Washington, D.C. 20301-3062

Subject: 48 CFR Parts 204, 235, and 252

Dear Defense Acquisition Regulations Council:

Thank you for allowing the opportunity to comment on proposed changes to the Defense Federal Acquisition Regulation Supplement. It is my understanding that the changes proposed are intended to prevent unauthorized disclosure of export-controlled information and technology under DoD contracts. I believe that the changes, if adopted, will significantly burden those academic institutions that partner with DoD and ultimately will prove more cumbersome than helpful. In the latter sense, it invariably requires more time-and-effort to negotiate the removal of contract boilerplate than to insert appropriate language in the small number of cases where it may be warranted.

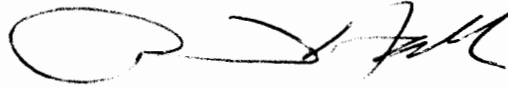
Specifically, I am alarmed at provisions in proposed new section 252.204-70XX (d), where access “shall include unique badging requirements for foreign nationals and foreign persons and segregated work areas for export-controlled information and technology.” The implementation of such a “unique badging requirement” would impose a stigma on many critical international scholars and ultimately will serve as a disincentive to participate in research at U.S. institutions. I fail to see how we can arrange “segregated work areas” for many of our projects conducted in the spirit of the fundamental research exclusion under NSDD-189.

Finally, the call in 252.204-70XX (e)(2) that the contractor “shall perform periodic assessments to ensure full compliance with Federal export laws and regulations” to be unacceptably vague. What sort of “assessment” is anticipated, and how frequently will satisfy the “periodic” requirement?

While protecting national security is a cause to be championed, I find nothing in the proposed rulemaking that gives me confidence that the changes, if adopted, would in fact accomplish their intended purpose. I think it is preferable for anticipated research contracts between DoD and performing institutions to recognize export control issues on a case-by-case basis and secure any requisite licensure from Commerce or State as those

issues arise. It will be much more efficient to proceed in this manner rather than to either renegotiate each contract with DoD as it arises, or worse, conclude that we are unable to accept such contractual terms at all.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. D. Hall', with a large, stylized initial 'R'.

Robert D. Hall, Ph.D., J.D.
Associate Vice Provost for Research

c: File